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OFFICE OF PETITIONS

In re Application of :
Brian Moore :
Application No. 09/854,905 :
Filed: May 15, 2001 :
Attorney Docket No. 11157-23 :

ON PETITION

This is a decision on the petition filed October 5, 2001, which is being treated as a petition under 37 CFR 1.55(c), requesting acceptance of an unintentionally delayed claim under 35 USC 119 (a) through (d) for benefit of the filing date of foreign Canadian Application No. 2,308,820, filed May 15, 2000.

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

- (1) the nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
- (2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date;
- (3) the surcharge of \$1,280.00, as set forth in 37 CFR 1.17(t);
- (4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1)(i) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional); and
- (5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

The above-identified pending nonprovisional application was filed on May 15, 2001, which is after November 29, 2000 and within 12 months of May 15, 2000 (the filing date of the foreign application to which benefit is now being claimed). An Application Data Sheet which identifies the foreign application for which priority is claimed by application number, country and filing date was filed with the instant petition. The required petition fee of \$1,280 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 USC 119(a) through (d) is granted.

A corrected filing receipt which includes the foreign priority claim to Canadian Application No. 2,308,820, filed May 15, 2000, and the revised projected publication date, February 7, 2002, of the instant application accompanies this decision on petition.

This application is being forwarded to Technology Center AU 2858 for consideration by the examiner of the foreign priority claim under 35 USC 119(a) through (d).

Any inquiries directly pertaining to this matter may be directed to the undersigned at (703) 305-8680.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt